

UNITED STATES DISTRICT COURT

FILED

for the

MAY 20 2019

Northern District of Ohio

Eastern Division

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
YOUNGSTOWN

1:19CV 1141

Case No.

(to be filled in by the Clerk's Office)

Frank Dominic Dundee

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Jury Trial: (check one) ☐ Yes ☒ No

JUDGE POLSTER

MAG. JUDGE GREENBERG

University Hospitals Corporation (Attorney Katherine Perry); Danialle Lynce;
Jason Glowczewski; Shawn Osborne; Rachael Lerman

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT FOR EMPLOYMENT DISCRIMINATION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Frank Dominic Dundee
Street Address	7707 Amberwood Trail
City and County	Boardman Mahoning County
State and Zip Code	Ohio 44512
Telephone Number	330-398-8274
E-mail Address	fdundee@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

Defendant No. 1

Name	Danialle Lynce
Job or Title <i>(if known)</i>	Director of Human Resources
Street Address	3605 Warrensville Center RD
City and County	Shaker Heights, Cuyahoga
State and Zip Code	Ohio 44122
Telephone Number	(866) 844-2273
E-mail Address <i>(if known)</i>	danialle.lynce@uhhospitals.org

Defendant No. 2

Name	Jason Glowczewski
Job or Title <i>(if known)</i>	C.O.O., University Hospitals Conneaut Medical Center
Street Address	158 W Main Rd
City and County	Conneaut, Ashtabula County
State and Zip Code	Ohio, 44030
Telephone Number	(440) 593-1131
E-mail Address <i>(if known)</i>	Jason.Glowczewski@uhhospitals.org

Defendant No. 3

Name	Shawn Osborne
Job or Title <i>(if known)</i>	Vice President, Supply Chain & Pharmacy Services
Street Address	3605 Warrensville Center RD
City and County	Shaker Heights, Cuyahoga
State and Zip Code	Ohio, 44122
Telephone Number	(866) 844-2273
E-mail Address <i>(if known)</i>	shawn.osborne@uhhospitals.org

Defendant No. 4

Name	Rachael Lerman
Job or Title <i>(if known)</i>	Director of Pharmacy Services
Street Address	3999 Richmond Rd
City and County	Beachwood Cuyahoga County
State and Zip Code	Ohio, 44122
Telephone Number	216-302-0158
E-mail Address <i>(if known)</i>	rachael.lerman@uhhospitals.org

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is

Name	University Hospitals Geauga Community Hospital
Street Address	13207 Ravenna Rd
City and County	Chardon Geauga County
State and Zip Code	Ohio 44024
Telephone Number	(440) 285-6000

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to *(check all that apply)*:

☒

Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

☐

Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)

☒

Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

☐

Other federal law *(specify the federal law)*:

☐

Relevant state law *(specify, if known)*:

☐

Relevant city or county law *(specify, if known)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes *(check all that apply)*:

☐

Failure to hire me.

☐

Termination of my employment.

☐

Failure to promote me.

☐

Failure to accommodate my disability.

☐

Unequal terms and conditions of my employment.

☒

Retaliation.

☒

Other acts *(specify)*: Requiring a medical exam in violation of the ADA for a perceived disability; not business related

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)

08/05/2016; 06/26/2017; 07/26/2017; 11/06/2017; 01/10/2018

C. I believe that defendant(s) *(check one)*:

☐

is/are still committing these acts against me.

☒

is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

☐

race

☐

color

☐

gender/sex

☐

religion

☐

national origin

☐

age *(year of birth)* *(only when asserting a claim of age discrimination.)*

☒

disability or perceived disability *(specify disability)*

Perceived disability resulting in an unlawful medical exam; not business related

E. The facts of my case are as follows. Attach additional pages if needed.

See attachment

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)*

7/10/2017; Intake form Retaliation 8/19/2017; ADA charge 8/23/2017; Second ADA Charge 4/20/18

- B. The Equal Employment Opportunity Commission *(check one)*:

☐

has not issued a Notice of Right to Sue letter.

☒

issued a Notice of Right to Sue letter, which I received on *(date)* March 13, 2019

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct *(check one)*:

☐

60 days or more have elapsed.

☐

less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

See attachment

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 5/17/2019

Signature of Plaintiff

Printed Name of Plaintiff


 Frank D Dundee
B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Street Address _____

State and Zip Code _____

Telephone Number _____

E-mail Address _____

B. The Defendant(s) continued:

University Hospitals Corporation

C/O Attorney Katherine Perry

3605 Warrensville Center RD

Shaker Heights [Cuyahoga County]

Ohio 44122

(330) 866-844-2273

Katherine.Perry@uhhospitals.org

EEOC Form 161 (11/16)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Frank Dundee
7707 Amberwood Trail
Boardman, OH 44512

From: Cleveland Field Office
EEOC, AJC Fed Bldg
1240 E 9th St, Ste 3001
Cleveland, OH 44199



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

533-2017-01275

Brian R. Shelton,
Investigator

(216) 522-4843

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

Enclosures(s)

On behalf of the Commission

Cheryl J. Mabry
Cheryl J. Mabry,
Director

March 6, 2019

(Date Mailed)

cc:

Danielle Lynce
Director, Human Resources
UNIVERSITY HOSPITAL
3605 Warrensville Center Rd.
LL9115
Shaker Hts., OH 44122

EEOC Form 161 (11/16)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

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7707 Amberwood Trail
Boardman, OH 44512

From: **Cleveland Field Office**
EEOC, AJC Fed Bldg
1240 E 9th St, Ste 3001
Cleveland, OH 44199



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(e))

EEOC Charge No.

EEOC Representative

Telephone No.

22A-2018-02065

Brian R. Shelton,
Investigator

(216) 522-4843**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

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Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



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On behalf of the Commission

Cheryl J. Mabry
Cheryl J. Mabry,
Director

March 6, 2019
 (Date Mailed)

Enclosures(s)

cc:

Danialle Lynce
Director, Human Resources
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